

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AGERE SYSTEMS, INC., et al.,

Plaintiff,

v.

CIVIL ACTION NO.  
02-cv-3830 (LDD)

ADVANCED ENVIRONMENTAL  
TECHNOLOGY CORPORATION, et al.,

Defendants.

**HANDY & HARMAN TUBE COMPANY, INC.'S MOTION  
TO STRIKE PORTIONS OF PLAINTIFFS' OPPOSITION TO ITS  
MOTION FOR SUMMARY JUDGMENT**

Defendant, Handy & Harman Tube Company, Inc. ("H&H Tube"), by and through its undersigned counsel, Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein, hereby moves the Court to strike portions of the Plaintiffs' opposition to H&H Tube's motion for summary judgment. In support of this motion, H&H Tube avers as follows:

1. On July 17, 2007, H&H Tube filed its motion for summary judgment.
2. On July 31, 2007, Plaintiffs filed its opposition to H&H Tube's motion for summary judgment.
3. Plaintiffs included in their opposition evidence that would not be admissible at trial and therefore should not be considered in connection with the Court's ruling on H&H Tube's motion for summary judgment.
4. Specifically, the following should be stricken from Plaintiffs' opposition:
  - A. Exhibits A and C to the Certification of Amy M. Trojecki.

B. The following references to Exhibits A and C contained in Plaintiffs' opposition brief:

- page 2: "H&H Tube also entirely disregards a statement by Jay Crawford, H&H Tube's employee of 25 years, that DCC hauled H&H Tube's TCE contaminated lubricating oils during the time DCC operated the Site."
- page 4: "Finally, Thomas Curran, a former H&H Tube Vice-President of Operations and an employee for 35 years, advised the EPA during a 1993 interview that the name DeRewal was familiar to him."
- page 7: "but Mr. Crawford stated that DCC hauled these wastes in 30 and 55 gallon drums."
- page 8: "Similarly, Mr. Curran described the various waste streams generated by H&H Tube during his 1993 interview with US EPA, but did not make any mention during that interview of 'industrial waste solution.'"
- page 12: "H&H Tube completely disregards a statement by Jay Crawford, who worked for H&H Tube for twenty-five years. Mr. Crawford stated that a company with the name DeRewal hauled drummed spent lubricant waste from the H&H Tube facility. Mr. Crawford further remembered that DCC picked up the drums during the time period of 1969 to 1977."
- page 12, n.6: "In addition, Mr. Crawford recalling that H&H Tube did business with DCC in the 1970s..."
- page 12, n.6: "Thomas Curran also recalled the name DeRewal and said the name was familiar to him during his 1993 interview with the US EPA."

- page 19: "Similarly, Curran described the various waste streams generated by H&H Tube during his 1993 interview with US EPA, but did not make any mention during that interview of 'industrial waste solution.'"

5. For the reasons set forth in the accompanying memorandum, H&H Tube's motion to strike should be granted.

WHEREFORE, Handy & Harman Tube Company respectfully requests that the Court strike the foregoing portions of Plaintiffs' opposition to its motion for summary judgment.

Respectfully submitted,

CARELLA, BYRNE, BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN

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Attorneys for Defendant,  
Handy & Harman Tube Company, Inc.

Dated: August 31, 2007

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date caused true and correct copies of the attached Cross Motion to Dismiss the Third Amended Complaint to be served on all counsel of record via email and first class mail, postage prepaid, addressed as follows:

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